

Message Text

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FOR US REP ICAO

E.O. 11652: N/A

TAGS: AORG, AFIN,EAIR,DA, ICAO

SUBJECT: 1956 ICAO AGREEMENT ON JOINT FINANCING OF
CERTAIN DANISH AIR NAVIGATION SERVICES: PAYMENT OF
SECOND HALF 1976 US ASSESSMENT

REF: (A) JOINT SUPPORT DOCUMENT WP/965, MAY 21, 1976;
(B) MONTREAL 655, MAY 28, 1976

BEGIN SUMMARY: DEPT HAS RECEIVED ICAO BILL FOR PAYMENT
OF SECOND HALF CY 1976 US ASSESSMENT FOR CERTAIN AIR
NAVIGATION SERVICES IN DANMARK AT ONE EXCHANGE RATE,
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WHILE DANISH GOVT. HAS REQUESTED THIS PAYMENT AT ANOTHER

EXCHANGE RATE. DANES APPEAR TO US TO HAVE A STRONG CASE.
ACTION REQUESTED: US REP ICAO SHOULD ASK APPROPRIATE ICAO
OFFICIALS AND UK REP WHETHER THEY AGREE WITH OUR JUDGMENT
ON VALIDITY OF DANISH POSITION AND SEEK ICAO GUIDANCE ON
HOW TO RESOLVE DILEMMA POSED ABOVE. END SUMMARY.

1. AS US REP ICAO AWARE, AND FOR INFO. AMEMBASSY
COPENHAGEN, 1956 AGREEMENT ON JOINT FINANCING OF CERTAIN
AIR NAVIGATION SERVICES IN GREENLAND AND THE FAROE ISLANDS
STIPULATES THAT CONTRACTING PARTIES TO AGREEMENT SHALL PAY
ICAO ON JANUARY 1 AND JULY 1 OF EACH YEAR-AND ICAO SHALL PAY
DENMARK -- AGREED ASSESSMENT FOR CERTAIN AIR NAVIGATION

SERVICES OPERATED BY DENMARK. PAYMENT, BOTH TO ICAO AND
TO DENMARK, SHALL BE IN US DOLLARS, UK POUNDS, OR DANISH
KRONER IF DANES AGREE.

2. DEPT. HAS JUST RECEIVED BILL OF AUGUST 12 FROM ICAO FOR
SECOND HALF US ASSESSMENT DUE JULY 1 OF THIS YEAR. US DOLLAR
AMOUNT OF OVER 836 THOUSAND DOLLARS IS CALCULATED AT
FORMER IMF CENTRAL RATE OF 6.28205 DK TO ONE US DOLLAR.
THIS IS RATE AT WHICH USG, FOR LAST SEVERAL YEARS AT
LEAST, HAS BEEN PAYING ITS BIENNIAL ASSESSMENT. HOWEVER,
DANISH DIRECTORATE OF CIVIL AVIATION, BY LETTER OF JULY 6
TO DEPT., HAS REQUESTED THAT USG PAY ITS JULY 1 ASSESS-
MENT BASED ON JULY 1 COMMERCIALY AVAILABLE RATE QUOTED
BY THE NATIONAL BANK OF DENMARK OF 6.137 DK TO ONE US
DOLLAR.

3. SINCE ASSESSMENTS ARE EXPRESSED IN DANISH KRONER, USE
OF LATTER EXCHANGE RATE WOULD RESULT IN SOMEWHAT LARGER
US DOLLAR CONTRIBUTION AND WOULD THEREFORE BE TO DANISH
ADVANTAGE AND US DISADVANTAGE. NEVERTHELESS, WE BELIEVE
THAT DANES HAVE A STRONG CASE, AND WILL BE IRRITATED IF -
WITHOUT RESPONDING TO THEIR LETTER - WE PROCEED TO PAY
SECOND HALF US ASSESSMENT AT FORMER IMF CENTRAL RATE
WHICH IS MORE BENEFICIAL TO USG AND LESS BENEFICIAL TO
DENMARK. OUR REASONS FOR CONSIDERING THAT DANES HAVE A
STRONG ARGUMENT ARE AS FOLLOWS:

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---A) 1956 JOINT FINANCING AGREEMENT STATES THAT IMF PAR
VALUE SHALL BE USED, BUT IF NO PAR VALUE EXISTS, "THE
RATE OF EXCHANGE ... SHALL BE FIXED BY AGREEMENT BETWEEN
THE GOVERNMENT OF DENMARK AND THE GOVERNMENT MAKING THE
PAYMENT OR THE ORGANIZATION (ICAO), AS THE CASE MAY BE"
(ARTICLE XI.4). IMF PAR VALUE CEASED TO EXIST IN 1971
WHEN DOLLAR DEVALUED. EVEN IF IMF CENTRAL RATE CAN BE
JUDGED TO HAVE REPLACED PAR VALUE, THIS IN TURN ENDED IN

1973. IMF CENTRAL RATE IS USED TODAY ONLY FOR CERTAIN BOOKKEEPING PURPOSES, SUCH AS IN PRESENT INSTANCE.

---B) ICELAND HAS ESTABLISHED PRECEDENT FOR USING COMMERCIALY AVAILABLE EXCHANGE RATE. UNDER IDENTICAL JOINT FINANCING AGREEMENT, US AND ICELAND (AND WE PRESUME OTHER CONTRACTING GOVTS.) HAVE, TWICE YEARLY SINCE 1974, AGREED TO EXCHANGE RATE TO BE USED IN PAYING US ASSESSMENTS.

4. WE NOTE FROM REFS A AND B THAT DANES, DURING MAY 1976 ICAO JOINT SUPPORT COMMITTEE MEETING, REQUESTED ACCEPTANCE

OF COMMERCIALY AVAILABLE EXCHANGE RATE AS WELL AS PAYMENT FOR ALLEGED FINANCIAL LOSSES DUE TO PAST UNFAVORABLE EXCHANGE RATES. REPORTS OF THIS MEETING INDICATE THAT REACTION TO DANES' FIRST REQUEST WAS MIXED: COMMITTEE ON ONE HAND SUGGESTED THAT DENMARK COULD FOLLOW ICELANDIC EXAMPLE IN NEGOTIATING COMMERCIALY AVAILABLE EXCHANGE RATE, WHILE UK REP ON OTHER HAND OPTED FOR CONTINUATION OF IMF CENTRAL RATE UNTIL SEPT. JOINT SUPPORT COMMITTEE MEETING WITH POSSIBILITY LEFT OPEN FOR RETROACTIVE ADJUSTMENT.

5. ACTION REQUESTED: BEARING IN MIND DILEMMA POSED FOR USG DESCRIBED IN PARAS. 2 AND 3, AND APPARENT INDECISION ON EXCHANGE RATE QUESTION DURING MAY JOINT SUPPORT COMMITTEE MEETING, US REP IS REQUEST TO:

----A) ASK APPROPRIATE ICAO OFFICIALS AND UK REP WHETHER THEY AGREE WITH OUR ANALYSIS IN SUB-PARAS 3(A) AND 3(B);

-B)SEEK GUIDANCE FROM ICAO AS TO HOW WE ARE TO PAY AUGUST 12 LIMITED OFFICIAL USE

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BILL FOR SECOND HALF US ASSESSMENT AND AT SAME TIME HANDLE REQUEST FROM DENMARK FOR PAYMENT OF THIS ASSESSMENT ON BASIS OF COMMERCIALY AVAILABLE EXCHANGE RATE. IF FUTURE RETROACTIVE ADJUSTMENT IS A SOLUTION UNDER CONSIDERATION, WE WOULD APPRECIATE BEING INFORMED.

6. IT MAY BE APPROPRIATE IN YOUR DISCUSSIONS ALSO TO POINT OUT THAT, IF USE OF COMMERCIALY AVAILABLE EXCHANGE RATE WERE TO BE AGREED TO AT THIS TIME, USG WOULD BE UNABLE TO ACCEPT 6.137 DK TO ONE US DOLLAR FOR JULY 1 PAYMENT. THIS FIGURE IS MIDDLE MARKET RATE. WE WILL INSIST ON USE OF A RATE AT LEAST AS FAVORABLE AS USG PREVAILING RATE, I.E., THE MOST FAVORABLE LEGAL RATE AT WHICH THE USG CAN BUY KRONER FOR DOLLAR INSTRUMENTS. PREVAILING RATE FOR JULY 1, 1976 WAS 6.1505 DK TO ONE US DOLLAR.

7. FYI: WE BELIEVE THAT OTHER ISSUE RAISED DURING MAY
JOINT SUPPORT COMMITTEE MEETING -- ALLEGED FINANCIAL
LOSSES OWED DENMARK DUE TO PAST UNFAVORABLE EXCHANGE
RATES -- CAN CERTAINLY BE DEFERRED UNTIL SEPT. MEETING.
END FYI: KISSINGER

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